UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CW

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/021,396 | 12/07/2001 | Clifton Lind | | 3603 |

7590 06/30/2003

SHAFFER & CULBERTSON, L.L.P
Suite 360
Building One
1250 Capital of Texas Highway. S.
Austin, TX 78746

| EXAMINER |
|---|
| CAPRON, AARON J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3714 | 9 |

DATE MAILED: 06/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

EC

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/021,396 | LIND ET AL. | |
| | Examiner | Art Unit | |
| | Aaron J. Capron | 3714 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *23 April 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

## DETAILED ACTION

This is a response to the Amendment received on April 23, 2003, in which claims 1 and 6 were amended. Claims 1-12 are pending.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in-
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
> (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claim 1-2 and 4-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker (U.S. Patent No. 6,024,640).

Walker discloses a lottery ticket distribution system including a ticket distribution center (Figure 1: AT, agent terminal) including an electronic ticket storage device for storing a game set comprising a number of electronic lottery tickets (8:32-39, the agent terminal storing, at a minimum buffer information relating to the read/write interface), each electronic ticket being represented by ticket data that includes at least a result and a ticket identifier associated with the respective electronic lottery ticket (3:27-45); a ticket record manufacturing device operatively connected with the ticket distribution center and located at a secure location inaccessible to game players, the ticket record manufacturing device for producing a non-volatile data record or a hard copy ticket record for each electronic lottery ticket in the game set, and being distinct from the

electronic ticket storage device (Figures 1 and 2: Lottery Authority and the LCC); a player terminal for receiving from the ticket distribution center the ticket data representing one of electronic lottery tickets, the player terminal residing at a location remote from the ticket distribution center (Figures 1 and 4: the HTV); a player ticket printer included with the player terminal, the player ticket printer for printing a player ticket with the result and a ticket identifier included in the respective ticket data (Figure 4: the HTV has printer capabilities and a bar code scanner); and a communications arrangement for facilitating the communication of the ticket data from the ticket distribution center to the player terminal and for facilitating the communication of a ticket request from the player terminal to the ticket distribution center (Figure 1 and 4: communication interface 92).

Referring to claim 2, Walker discloses the ticket manufacturing device comprises a hard copy printer that produces the hard copy ticket record for each electronic lottery ticket in the game set (Figure 1: printer 22 and receipt 30).

Referring to claim 4, Walker discloses the display operatively connected to the player terminal for displaying the result included in the ticket data in response to a player input at the player terminal (Figure 1 and 4: display 84).

Referring to claim 5, Walker discloses the ticket distribution center includes a manufacturing computer for manufacturing the game set (Figure 9 and 5:3-12).

Claims 6-8 and 11-12 correspond in scope to a method set forth for use of the structure listed in claims listed above and are encompassed by use as set forth in the rejection above.

Referring to claim 9, Walker discloses the step of storing the ticket data (information stored on the smart card) while different data representative of a different one of the e-tickets is

printed on a different player ticket in response to a play request entered through the player terminal (printing a different ticket on from the HTV).

Referring to claim 10, Walker discloses the step of storing the ticket data (information stored on the smart card) while different data representative of a different one of the e-tickets is printed on the player ticket in response to a play request entered through the player terminal (printing a different ticket on from the HTV).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker. Referring to claim 3, Walker discloses the ticket record storage device, but does not disclose an optical disc writer that produces the non-volatile data record for each electronic lottery ticket in the game set. However, it is notoriously well known in the art of data storage that optical discs are used as non-volatile memory that can store a more considerable amount of data than magnetic memory. The amount of memory on an optical disc allows for more information to be stored on each disc. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the optical disc into Walker's invention in order to store more information.

*Response to Arguments*

Applicant's arguments filed April 23, 2003 have been fully considered but they are not persuasive.

Applicant argues that Walker does not teach or suggest producing a game set record separate from outcome data stream itself and maintaining the game set record at a secure location, inaccessible to players. However, Walker discloses maintaining the game set record at a secure location that is inaccessible to players at the Lottery Authority and LCC (Figure 1) that produces a game set record for each lottery ticket that can be stored on a smart card or by other means to store the outcome (abstract). Therefore, Applicants' claimed invention fails to preclude Walker's lottery system.

Further, it is noted that the Applicant's failed to reasonably traverse examiner's well known statements in their response, therefore, the object of the examiner's statements (e.g. optical discs are used as non-volatile memory that can store a more considerable amount of data than magnetic memory) is taken as admitted prior art. *In re Chevenard*, 139 F.2d 711, 60 USPQ 239 (CCPA 1943).

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ajc
June 18, 2003

MARK SAGER
PRIMARY EXAMINER